

**Application for Variance/Appeal
Development and Planning Department**

Fee: \$300.00

Address & Legal Description of Property:

This is an appeal by adversely affected residents and
property owners of the Planning and Development
Director's 11/10/2020 authorization (Exhibit "B") of a
short-term rental at 105 Poinsetta St., Lafayette, LA
70506

Owner: Appellants seek an appeal of P&D Director's permit to Bass Family Properties, LLC

Address: authorizing operation of a Short-term Rental at 105 Poinsetta St.

City: Lafayette State: LA Zip Code: 70506

Telephone: - Fax: -

Email Address: -

Applicant: Colby Langlinois, et al (see attached list of Appellants at Exhibit "C")

Address: 316 Myrtle Blvd., Lafayette, LA 70506 also Appellant addresses at Exhibit "A")

City: Lafayette State: LA Zip Code: 70506

Telephone: 337-541-8669 Fax: N/A

Email Address: colby@langlinoisbakery.com

Name of Agent: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: _____ Fax: _____

Email Address: _____

OFFICE USE ONLY

Date of Application: _____

Proposed BOZA Meeting Date: _____

Received by: _____

1. Requested Variance/Appeal:

In describing the exact nature and type of variance or appeal being requested, the applicant must clearly indicate the specific requirements for which they are requesting a variance and/or the administrative decision or interpretation that is being appealed. This section should describe the particular provisions of the Lafayette Development Code (LDC) or other laws that prevent the proposed project.

See Attached Exhibit "C"

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper appears to be from a notebook or a standard sheet of stationery. There is no handwriting or other markings on the page.

2. Reason and justification for Variance/Appeal:

This section should describe how the literal interpretation of the provisions of the LDC would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Code.

See attached Exhibit "C"

CERTIFICATION AND AGREEMENT

1. The applicant/owner declares that the statements on this application are true and correct.
2. The owner's signature is certification that he/she is the owner of the subject property and consents to the submission of the application for a variance, even if a non-owner applicant submits the request.
3. By filing a petition for a variance, the applicant/owner consents to allow the appropriate City-Parish employees to enter the property described in this variance request for the purposes of installation, maintenance and removal of a public notification sign and to inspect and photograph the site.
4. The owner and applicant acknowledge that the actions of the Board of Zoning Adjustment have no effect on any existing private Subdivision Restrictions or Covenants. Compliance with any applicable private regulations is a civil matter and the responsibility of the property owner.

Signed this _____ day of February, 2021

Owner

(Print Name)

(Signature)

Applicant

Colby M. Langlais
(Print Name)

Colby M. Langlais
(Signature)

Spellant

We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name:

Address:

Print: Jeanne Langlinais 316 Myrtle Place
Sign: [Signature] Lafayette, LA 70506

Print: Gordon Schoeffler 100 Oleander St.
Sign: [Signature] Lafayette, LA 70506

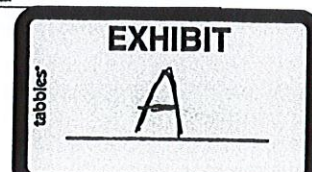
Print: Alison Schoeffler 100 Oleander St.
Sign: [Signature] Lafayette, LA 70506

Print: Joel Bacque 702 MYRTLE PLACE
Sign: [Signature] LAFAYETTE LA 70506

Print: Melanie Bacque 702 MYRTLE PLACE
Sign: Melanie Bacque LAFAYETTE, LA 70506

Print: KAMM Monev 319 Myrtle place
Sign: [Signature] Lafayette, LA 70506

Print: Willis D. Lester 319 Myrtle Place
Sign: Willis D. Lester LAFAYETTE, LA 70506



We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name: _____ Address: _____
Print: Phillip Ortega 300 Myrtle Place
Sign: Phillip C. Ortega Lafayette, LA 70503

Print: DANA A. LANG 500 Myrtle Place 70506
Sign: Dana A. Lang Lafayette, Louisiana

Print: George M. Lang 500 Myrtle Place
Sign: Geo M Lang Lafayette, LA 70506

Print: JEREMY MORROW 614 CALDER ST
Sign: Jeremy LAFAYETTE, LA 70506

Print: Sondra Morrow 614 Calder St
Sign: Sondra Lafayette, LA 70506

Print: _____
Sign: _____

Print: _____
Sign: _____

We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name:

Address:

Print: MARGUERITE B VOORHIES

602 PARKSIDE DR

Sign: Marguerite B Voorhies

LAFAYETTE, LA 70506

Print: E. Gregory Voorhies

602 PARKSIDE DR.

Sign: EGV

L/L 70506

Print: KAREN HARWOOD

304 AZALEA ST.

Sign: Karen J Harwood

LAFAYETTE, LA. 70506

Print: Andrew Harwood

304 Azalea st.

Sign: Andrew

Lafayette, La. 70506

Print: Marie Voorhies 306 Azalea St.

Sign: Marie Voorhies Lafayette, La.

Print: Helen Denise Castille 302 Azalea Street

Sign: Helen Denise Castille Lafayette LA 70506

Print: _____

Sign: _____

We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name:

Address:

Print: Andrew Hill

117 Myrtle Place

Sign: [Signature]

Lafayette, LA 70506

Print: Jill Kraemer 117 Myrtle Place

Sign: Jill Kraemer Lafayette, LA 70506

Print: Billy Jo Muller 412 Parkside Dr.

Sign: Billy Jo Muller Lafayette, LA 70501

Print: STAN MULLER 412 PARKSIDE DR.

Sign: [Signature] LAFAYETTE LA 70501

Print: Eileen Landry 204 Iris Lane

Sign: Eileen Landry Lafayette, LA 70506

Print: _____

Sign: _____

Print: _____

Sign: _____

We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name:

Address:

Print: Robert J. Robichaux 517 Myrtle Pl Laf. LA 70506

Sign: Robert J. Robichaux

Print: Ken Michon 105 Oleander St

Sign: Ken Michon

Print: Tom Justice 105 Oleander St, 70506

Sign: Tom Justice

Print: GARY STEVENS 101 OLEANDER ST.

Sign: Gary X. Stevens

Print: JANET STEVENS 101 OLEANDER ST

Sign: Janet Stevens

Print: BOB ADAMS 107 Hibiscus St

Sign: Bob Adams LAFAYETTE, LA 70506

Print: Doug Gonzales 1525 Myrtle Pl

Sign: Doug Gonzales LAFAYETTE, LA 70506

We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name:

Address:

Print: DAVID P. DANIEL 105 Hibiscus St.
Sign: [Signature] Lafayette, LA. 70506

Print: SUSAN BREAU 113 MYRTLE PL
Sign: Susan Breau LAFAYETTE LA 70506

Print: Stephanie Cornay Dugan 101 Myrtle Place Blvd
Sign: [Signature] Lafayette, LA 70506

Print: Greg Dugan 101 Myrtle Place Blvd.
Sign: [Signature] Lafayette, LA 70506

Print: KAREN PRIMEAUX 900 W. ST Mary Blvd
Sign: Karen Primeaux Lafayette, LA 70502

Print: Maureen Phelan 714 Myrtle Pl
Sign: Maureen Phelan Lafayette LA 70506

Print: Rosemary P Turpie 122 Edgewood Terrace
Sign: Rosemary P. Turpie Lafayette, LA 70506

We, the undersigned, as adjacent property owners and neighborhood members who reside near 105 Poinsetta Street, Lafayette, LA 70506, join as Appellants with Colby Langlinais as being adversely affected by the Development & Planning Director's November 10, 2020 determination to authorize the operation of a short term rental at said address:

Name:

Address:

Print: Michael Cope

Sign: [Signature]

1111 West University Avenue
Lafayette, LA 70506

Print: Patrick Hiron

Sign: [Signature]

528 Parkside Dr.
Lafayette LA 70506

Print: Rachel Barry

Sign: [Signature]

528 Parkside Drive
Lafayette, LA 70506

Print: _____

Sign: _____

Print: _____

Sign: _____

Print: _____

Sign: _____

Print: _____

Sign: _____



Office of the Director

November 10, 2020

Bass Family Properties, LLC
Attn: Mike Bass
203 Iris Lane
Lafayette, LA 70506

Re: 105 Poinsetta Street, Lafayette, LA

Dear Mr. Bass:

Since the issuance of the February 7, 2020 "Use Violation" letter, this office has further examined the nature of Short-Term Rentals and their operation and use in certain zoning districts in the City of Lafayette. Although not listed as a permitted use in RS zoning districts, Short-Term Rentals are not expressly prohibited, as they are undefined and unregulated by the UDC. As such, pursuant to UDC Section 89-21(c) and applying the guidelines contained therein, the Administrator has determined that the use of your property as a Short-Term Rental at 105 Poinsetta Street will be considered an authorized use by this office.

In light of the foregoing, please disregard this offices' February 7, 2020 correspondence to you regarding 105 Poinsetta Street.

Very truly yours,

A handwritten signature in cursive script that reads "Mary Sliman".

Mary Sliman
Director, Development & Planning

Cc: Paul D. Escott, LCG Legal Dept.



EXHIBIT "C"

Appellants submit this appeal under the provisions of LDC 89-68(a)(2) (and/or under the former UDC provision, numbered identically), all asserting that they have been adversely impacted by the Development and Planning Director's November 10, 2020 decision to authorize the continued operation of a short-term rental in their neighborhood located at 105 Poinsetta St., Lafayette, La 70506 (see Exhibit "B"). Several of the Appellants own property immediately adjacent to the short-term rental and/or within the 200 foot radius designated by LDC/UDC 89-68(d) and have been adversely impacted by the ongoing operation of the short-term rental. Other Appellants live and own property in the neighborhood and surrounding areas and fear that the Director's decision will set a precedent authorizing short-term rentals as a permitted use in the rest of the neighborhood, and the City of Lafayette at large. Appellants received no notice whatsoever that the Director had made this determination, thus this appeal is submitted as timely as possible under the circumstances.

BASIS OF APPEAL

A. Director's determination at issue was based on an erroneous interpretation of the LDC and/or former UDC

It is the Appellants' position that short-term rentals are not a permitted use in an RS-1 zoned area under the LDC or the former UDC and that the Director's determination otherwise, without notice to anyone affected, was based on an erroneous interpretation of the LDC and/or former UDC, specifically the permitted uses within an RS-1 zoned area pursuant to LDC 89-21/ former UDC 89-21. It should be noted that in the November 10, 2020 determination letter at issue, the Director expressly admits that short term rentals "are not listed as a permitted use in RS-1 zoning districts." This admission in and of itself is fatal to the authorization granted.

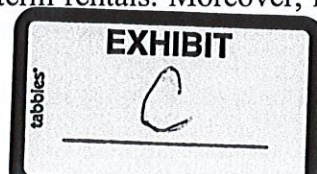
1. Short-Term Rentals do not meet the definition of Single-Family Residences

The area in which Appellants reside is zoned RS-1 which the LDC and the UDC designates as "predominantly detached, single family neighborhoods." LDC/UDC Sec. 89-9. Within RS-1, "Dwellings, single-family detached" are permitted, defining same as "A detached building designed as a residence for one family." LDC/UDC 89-21.

"Dwelling" is further defined as "A building, or individual units within a mixed-use building, designed for or used exclusively for residential purposes. A dwelling includes any use designated as a "residence" in the Use Table." LDC /UDC 89-151.

A "family" is defined as one or more persons who are related by blood or marriage, civil union, adoption, or foster care living together and occupying a single housekeeping unit, or a group of not more than four single persons living together by joint agreement and occupying a single housekeeping unit on a non-profit, cost-sharing basis. Domestic servants residing on the premises shall be considered as part of the family." LDC/UDC 89-151.

The Subject Property does not fit the definition of a "Dwelling- single family detached" due to the transient nature of short-term rentals. Moreover, no "family" resides on the property.



The LDC/UDC does not define the word "residence", but the Meriam-Webster Dictionary offers a definition in pertinent part as: "the place where one actually lives as distinguished from one's domicile or a *place of temporary sojourn*." (emphasis ours). Accordingly, there is no scenario in which a short-term rental meets the definition of any acceptable use within RS-1 or in which the use of the subject property as a short-term rental somehow fits the definition of a Dwelling-Single Family Detached residence. As such, the Director's determination was clearly erroneous.

2. Short-Term Rentals are a Commercial Use of Property which is not Permitted in a, RS-1 Zoned Residential Area

The use of the subject property as a short-term rental is plainly a for-profit activity aimed at monetizing property by letting it out to transient occupants on a regular basis. Just like a commercial hotel, there are check-in and check-out times, discounts offered, deposits paid, and cancellation policies. The business which operates there is heavily marketed on the internet and plainly seeks to operate for profit. It is undeniable that the Subject Property is being utilized for commercial purposes, which the LDC/UDC defines as "Any business, trade, industry, or other activity engaged in for profit." LDC/UDC 89-151.

Commercial use of property in an RS-1 zoned area is in direct conflict with the residential nature of the neighborhood. More importantly, short-term rentals are not itemized among any of the permitted commercial uses within an RS-1 zone. The Use Table at LDC/UDC 89-21 (a copy of which is attached hereto as Exhibit 3) provides that the only commercial use allowed in an RS-1 zoned district is a "Nursery/Horticulture/Farm Supply." Even then, such a use is allowed only through a conditional use permit. Further, under "Lodging" uses defined by the Table, the only lodging permitted in an RS-1 zone would be a Bed and Breakfast, again, only under a conditional use permit. LDC/UDC 89-21. Hotels and motels are not permitted at all. Short-term rentals which do not and cannot fit the definition of a bed and breakfast, a hotel, or a nursery/horticulture/farm supply simply are not permitted as a commercial or lodging use in RS-1 zones.

Moreover, Louisiana Courts have been explicit about commercial uses in residential areas. The Louisiana Supreme Court has recognized that one of the principal regulations which has been utilized to carry out the purposes of zoning laws in Louisiana is the exclusion of commercial uses from residential districts- noting that business uses are generally excluded from residential districts by simply omitting them from the list of permitted uses. *New Orleans v. Elms*, 566 So.2d 626, 629 (La. 1990); citing *State ex rel. Giangrosso v. City of New Orleans*, 159 La. 1016, 1017, 106 So. 549, 550 (1925). Lafayette's zoning ordinance, whether under the UDC or LDC, is no exception to the rule. It too was specifically designed to prevent commercial uses in residential areas. Again, the Director's determination to authorize a commercial short-term rental in a residential single family zoned area was based on an erroneous interpretation of the LDC and/or former UDC and should be reversed.

3. Director's Determination that Because Short-Term Rentals are not Expressly Prohibited, they should be Permitted, is an Erroneous Interpretation of the LDC/ UDC

In her determination to authorize the short-term rental at issue, the Director states, "Although *not listed as a permitted use in RS zoning districts*, *Short-term Rentals* **are not expressly prohibited**, as they are undefined and unregulated by the UDC. As such, pursuant to UDC Section 89-21(c) and applying guidelines contained therein, the Administrator has determined that the use of your property as a Short-Term rental at 105 Poinsetta Street will be considered an authorized use by this office." The Director's determination in essence is that because its not prohibited, it is allowed. This is an erroneous interpretation and application of the zoning ordinance, which is expressly a permissive ordinance, meaning, unless it is expressly permitted, it is prohibited.

Lafayette's LDC and former UDC broadly establishes: "**No building or land shall be used, and no building or part shall be erected, reconstructed, converted, moved, or structurally altered unless they conform to all applicable regulations in this Chapter.**" LDC/UDC 89-3. Thus, the ordinance establishes a "permissive" zoning regime intended to prohibit all uses that are not expressly permitted, or incidental to uses so permitted, in the district in which a given property is located. Indeed, Louisiana Courts interpreting similar "permissive" zoning ordinances have recognized this principal. See e.g., *Redfearn v. Creppel*, 436 So.2d 1210, 1214 (La. App. 4 Cir. 1983); *New Orleans v. Elms*, 498 So.2d 773, 776 (La. App. 4 Cir. 1986) ("A zoning ordinance, by its very nature, sets forth the uses permitted and does not have to specifically exclude every non-permitted use.")

An interpretation of the LDC/UDC as permitting everything it fails to expressly prohibit could also lead to absurd consequences for the Appellants' neighborhood and this community when considering that the LDC/UDC also fails to expressly prohibit untold "undefined" and "unregulated" potential activities. A few examples of uses that the LDC/UDC does not expressly prohibit in RS-1 zoned areas include firing ranges, alligator farms, and nudist colonies to name a few. Taken to its extremes, the Director's action sets a dangerous precedent which could be used to justify virtually any use which is not "expressly prohibited."

Worse yet, the Director's interpretation negates the very purpose of zoning laws in the first place- for the promotion of "health, safety, morals, or the general welfare of the community..." La. Rev. Stat. 33:4721. This also ignores that Louisiana law provides that zoning regulations "shall be made with reasonable consideration of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the municipality". La. Rev. Stat. 33:4723.

B. Director's Authorization under UDC/LDC 89-21(c) is Not Supported by UDC/LDC

In the determination at issue, the Director cites UDC/LDC 89-21(c) as the authority on which she granted permission for the subject short-term rental to operate. That provision provides pertinently:

“(c) If a use is not defined in this Section, the Administrator may authorize the use if –

- (1) The use is functionally the same as a listed use, or
- (2) The use has similar visual, traffic, environmental and similar impacts as an expressly listed use. The Administrator may refer to empirical studies or generally accepted planning or engineering sources in making this determination. The burden is on the applicant to establish that the use is similar to the expressly listed use, or
- (3) Other comparably sized jurisdictions have successfully integrated the use in one or more equivalent zoning districts.
- (4) The use is within the same industry classification as another permitted use. In making this determination, the Administrator may refer to the most recent edition of the North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, (“NAICS”). If the use is not defined in the NAICS, the Administrator may refer to the most recent addition of the American Planning Association, Land-Based Classification Standards LBCS Tables, or any other recognized and accepted publication in the industry.”

• The Director’s determination indicates that she applied the guidelines referenced above in her determination, but provides no specific information which guideline(s) were utilized, or the factual or legal basis on which she based the decision. A review of each guideline though illustrates that the authorization of a short-term rental in an RS-1 zoned district is not supported by any of 89-21(c)’s guidelines.

1. Short-term rentals are not “functionally the same as a listed use” in RS-1 Zones

As noted above, and as can be seen in the LDC/UDC Use Table at 89-21, short term rentals simply are not permitted uses in an RS-1 Zone. The Director candidly admits this in her determination letter. The only permitted uses in an RS-1 zone are Dwelling, single family detached, accessory apartment, community home, and several public/civic, infrastructure, and agriculture uses defined. Id. Given the nature of what it is and how it operates, i.e. as a commercial by-the-night rental for transient occupants from the internet, a short-term rental is not and cannot be deemed “functionally the same as a listed use.”

2. Short-term rentals do not have similar visual, traffic, environmental and similar impacts as an expressly listed use

Short-term rentals do not have similar impacts to the Appellant's neighborhood that a home, occupied by a family, does. The coming and going of transient occupants, the parking of multiple vehicles on the streets, the light and noise problems that have been experienced by Appellants, are not similar at all to those uses permitted by the LDC/UDC. Worse yet, the genuine and imminent fear that Appellants have for their children, families, homes, and property resulting from the revolving door of short-term rental guests from the internet lodging next door is a far cry from the impacts of the long-term neighbor/resident living next door. The Director has been provided with a plethora of information from Appellants and other concerned citizens in this community evidencing that the impacts of a short-term rental next door to one's home are not at all similar to visual traffic environmental or other similar impacts as any expressly listed use in an RS-1 zoned district. The Director's determination otherwise is erroneous or ignores the information she has been provided to the contrary.

3. There is no evidence whatsoever that other comparably sized jurisdictions have successfully integrated the use in one or more equivalent zoning districts

It is uncertain whether the Director utilized this guideline in her determination, but if she did, the evidence that is out there is far from settled as to whether any other comparably sized jurisdictions have successfully integrated short-term rentals in their zoning districts. For example, the governing authorities of Baton Rouge have remained in a deadlock over how and if to regulate short-term rentals; New Orleans has enacted strict regulations for short-term rentals embodied in a 58 page *City Of New Orleans Department Of Safety And Permits Short Term Rental Handbook* which can be found at link: <http://www.nola.gov/nola/media/311/str-handbook-version-20191203.pdf>. A cursory review of cities, large and small, across America reveals that communities across the country are grappling with how to manage the problems generated by short-term rentals. The debate on the "successful integration" of short-term rentals in communities nationwide is anything but settled. Where they have been implemented, they are heavily regulated.

The Director's determination to authorize the short-term rental in this case does so with no regulatory framework whatsoever for same to operate within. This is problematic for Appellants, some of whom have to live next door to this unregulated business. There are no communities that have successfully integrated short-term rentals into their communities without any regulation whatsoever. This guideline does not support the Director's determination.

4. Short-term rentals are not within the same industry classification as another permitted use

It is unclear whether the Director utilized this guideline but there seems to be no consensus on which NAICS guideline a short-term rental would fall under. It appears that NAICS code 721199- "All Other Traveler Accommodation Description" is the suggested code for use though by several authorities on the subject. This code provides "This U.S. industry comprises establishments primarily engaged in providing short-term lodging (except hotels, motels, casino hotels, and bed-and-breakfast inns)."

Apparently, the preferred NAICS code for short-term rentals falls in the general industry category for the lodging industry, which includes hotels, motels, casino hotels, and bed-and-breakfast inns. None of these uses are permitted in RS-1 zones, with the exception of a bed and breakfast, which as noted above is subject to a conditional use permit and strict use guidelines embodied in the LDC/UDC. Under any circumstance, this guideline simply cannot serve as grounds for the Directors' authorization of a short-term rental in an RS-1 zone in Lafayette.

C. A Decision by BOZA is Needed to Avoid a Violation of the Appellants' Constitutional Rights, or to Provide a Reasonable Accommodation of Rights Granted them Under Federal Law

Further, as the Director's decision to authorize short-term rentals in Appellants' neighborhood occurred without any notice or opportunity for affected or interested parties to be heard, and operation of short-term rentals on adjacent properties may have an adverse impact on Appellants' property values and quality of life, a decision by BOZA is needed to avoid a violation of the Appellants' constitutional rights, or to provide a reasonable accommodation of rights granted them under federal law, including but not limited to Due Process rights.

Appellants Colby Langlinais, Jeanne Langlinais, Gordon Schoeffler, and Alison Schoeffler originally filed a complaint with the Lafayette Planning and Zoning department on December 16, 2019, asserting that the short-term rental at issue was not permitted under the UDC. A second complaint was filed on February 6, 2020 and a third on May 27, 2020. On February 7, 2020 the Lafayette Planning and Zoning Department issued a notice of abatement to the owner of the subject property, asking it to discontinue its use of the Subject Property as a short-term by February 21, 2020. See attached Exhibit "1".

The property owner submitted an appeal to the abatement notice on March 9, 2020, triggering a hearing before the Board of Zoning Adjustment ("BOZA"). The initial BOZA hearing scheduled for April and May of 2020 did not occur due to COVID. Thus a BOZA hearing was scheduled to occur on June 11, 2020 but was deferred to July 9, 2020. Notices were issued to all adjacent property owners within 200 feet of the subject property pursuant to the UDC. But before the hearing occurred, on June 30, 2020, the BOZA hearing was deferred indefinitely due to the COVID pandemic. See attached Exhibit "2". Upon information and belief, BOZA has held meetings to address numerous other cases since its deferral of the appeal.

Since the deferral of the appeal, Appellants have been awaiting a notice of the refixing of the BOZA hearing. Apparently though, in November of 2020, the Development and Planning Director, advised the owner of the short-term rental that it was authorized to continue operation of the short-term rental at issue and that it could disregard D&P's prior abatement notice. This determination was made without notice to the complainants or other property owners involved, and without any formal hearing or opportunity for them to be heard.

Appellants assert that the operation of a short-term rental next door to their homes, their families, their pets- all traditional things existing in a residential area- has and will have a detrimental effect on them, their property values, their quality of life, and their substantial investments. Appellants, having lost their opportunity to be heard by the Director's Nov. 10, 2020

determination, thus submit this appeal as their only chance to be heard on the issue of whether short-term rentals should be permitted in their neighborhood.



Development and Planning
Director's Office

February 7, 2020

Bass Family Properties, LLC
Attn: Mike Bass
203 Iris Lane
Lafayette, LA 70506

Re: Use Violation

Dear Mr. Bass:

The Lafayette Consolidated Government's Unified Development Code ("UDC") contains regulations that apply to every property located in the City of Lafayette and the unincorporated areas of Lafayette Parish. The Code may be viewed online at the following link:

http://www.lafayettela.gov/ComprehensivePlan/Documents/UDC_Amended_June_2018.pdf

This office recently received a complaint about the property located at 105 Poinsetta Street being used for Short-Term Rental on internet sites including, but not limited to AirBNB, VRBO, and/or Facebook in a RS-1 (Residential Single-Family) zoning district. The UDC states, in part:

89-3 Applicability

(a) Use of building or land

(1) No building or land shall be used...unless they conform to all applicable regulations in this Chapter.

89-21 Use Table

(a) This section establishes the uses that are permitted in each zoning district.

Table 89-21-2 Use Table does not include "Lodging/Short-Term Rental" as a by right permitted use in the RS-1 zoning district.

It is important that this situation is addressed immediately. Our office will work with you to give you the opportunity to correct the situation before we take enforcement action. By February 21, 2020, please discontinue your use and operating 105 Poinsetta Street in this manner.

If you have any questions, please call me at 337-291-8013.

Sincerely,

Danielle Breaux
Director of Development and Planning Department

220 West Willow Street, Building B / Lafayette, LA 70501 / p: 337.291.8013 / dbreaux@lafayettela.gov

EXHIBIT

1

Scanned with CamScanner

**AGENDA
REGULAR MEETING
BOARD OF ZONING ADJUSTMENT
DEVELOPMENT AND PLANNING AUDITORIUM
220 WEST WILLOW STREET, BUILDING B
THURSDAY, JULY 9, 2020
5:30 P.M.**

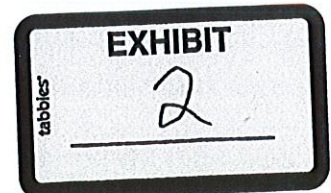
I. CALL TO ORDER

II. APPROVAL OF MINUTES

Regular Meeting – May 14, 2020

III. NEW BUSINESS

1. CASE NO.: **BOZ2020-0010**
APPLICANT: Melissa Hoffpauir Llewellyn
LOCATION: 114 Saint George Street
REQUEST: Variance of the Setback Regulations in the RM-1 (Residential Mixed) Zoning District.
2. CASE NO.: **BOZ2020-0011**
APPLICANT: Bass Family Properties, LLC – Mike Bass
LOCATION: 105 Poinsetta Street
REQUEST: Appeal of a decision by the Administrator regarding short-term rental uses in the RS-1 (Residential Single-Family) Zoning District.
3. CASE NO.: **BOZ2020-0012**
APPLICANT: Bryan Boudreaux
LOCATION: 1501 La Neuville Road
REQUEST: Variance of the Lot Size Requirements for a Self-Service Storage Facility in a CM-1 (Commercial Mixed) Zoning District.
4. CASE NO.: **BOZ2020-0013**
APPLICANT: Lafayette Central Park
LOCATION: 2913 Johnston Street
REQUEST: Variance of the Sign Regulations in a RM-1 (Residential Mixed) Zoning District.
5. CASE NO.: **BOZ2020-0014**
APPLICANT: D. R. Horton Inc. – Gulf Coast
LOCATION: 405 & 407 Starlight Drive
REQUEST: Variance of the Setback Regulations in a RS-1 (Residential Single-Family) Zoning District.



6. CASE NO.: **BOZ2020-0015**
APPLICANT: Louis Anzalone Companies, LLC
LOCATION: 129, 131, 133, 135 and 137 Saint Germaine Circle
REQUEST: Variance of the Setback Regulations in a RM-1 (Residential Mixed) Zoning District.

IV. OTHER BUSINESS

7. Elections of Officers

V. ADJOURNMENT



89-20 Annexed Territory

(a) Generally

- (1) All territory that is annexed to the City of Lafayette is automatically assigned the "A" Agricultural classification until existing land uses are determined and a new zoning category is adopted.
- (2) In lieu of the "A" district, the applicant for annexation may provide an application for rezoning concurrent with any petition for annexation. If the proper notice is given, the zoning classification may be approved concurrent with final approval of the annexation, or after the annexation is complete.
- (3) **Time limitations.** Unless another district is applied at the time of annexation, the "A" district zoning classification will apply to that property until:
 - a. The LCG initiates and approves a rezoning to another zoning district as provided in Article 4.
 - b. The owner or owners of property automatically zoned "A" may file an application to rezone the property as provided in Article 4. The appropriate Zoning Commission will then proceed through normal zoning reclassification procedures.
 - c. Property automatically zoned "A" is considered on a priority basis and shall be scheduled at the earliest possible scheduled regular meeting of the appropriate Zoning Commission.

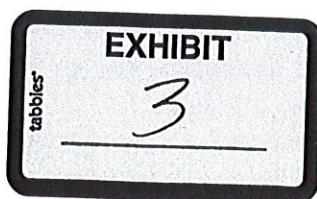
89-21 Use Table

- (a) This section establishes the uses that are permitted in each zoning district. Each use is defined in subsection (d), below.
- (b) The Use Table (Table 89-21-2) establishes the following categories of uses:

Table 89-21-1 Use Categories

Notation	Category	Description
P	By right	The use is permitted if it meets the standards established in the zoning district, and any other applicable standards of this Chapter.
C	Conditional Use	The use requires a conditional use permit approved by the appropriate Zoning Commissions (see § 89-54).
A	Accessory Use	A use customarily incidental and subordinate to the principal use or building and located on the same lot with the principal use or building.
	Not permitted	A blank cell indicates that the use is not allowed in the district. A property owner who wants to establish the use may apply for a rezoning to a district that does allow the use.

- (c) If a use is not defined in this Section, the Administrator may authorize the use if –
 - (1) The use is functionally the same as a listed use, or
 - (2) The use has similar visual, traffic, environmental and similar impacts as an expressly listed use. The Administrator may refer to empirical studies or generally accepted planning or engineering sources in





making this determination. The burden is on the applicant to establish that the use is similar to the expressly listed use, or

- (3) Other comparably sized jurisdictions have successfully integrated the use in one or more equivalent zoning districts.
- (4) The use is within the same industry classification as another permitted use. In making this determination, the Administrator may refer to the most recent edition of the *North American Industry Classification Manual* (Executive Office of the President, Office of Management and Budget, ("NAICS")). If the use is not defined in the NAICS, the Administrator may refer to the most recent addition of the American Planning Association, *Land-Based Classification Standards LBCS Tables*, or any other recognized and accepted publication in the industry.

Table 89-21-2 Use Table

Use Category	"A" Agricultural	"RS" Residential Single-Family	"RM" Residential Mixed	"MN" Mixed-Use Neighborhood	"MX" Mixed-Use Center	"D" Downtown	"CM" Commercial Mixed	"CH" Commercial Heavy	"PI" Public/Institutional	"IL" Industrial Light	"IH" Industrial Heavy
Residential											
Residences:											
Dwelling, single-family detached	P	P	P	P							
Accessory apartment	P	P	P	P	P	P	C				
Cottage Courts		C	P	P		C	P				
Dwelling, two-family (duplex)		C	P	P			P				
Multi-family			P	P	P	P	P	P			
Live/Work Dwelling			P	P	P	P	P				
Manufactured home											
Manufactured Housing Land Lease Community	P	C	C								
Apartment House			P	P	P	P	P				
Apartment Hotel				P	P	P	P	P			
Townhouse / Row house		C	P	P	P	P	P				
Group Living:											
Boarding House			P	P	P	P					
Community living			P	P	P	P	P	P			
Community home	P	P	P	P	P	P	P			P	
Life care or continuing care services				P	P	P	P	P			
Lodging											
Bed and breakfast		C	C	C	C	C	C				
Hotel (small)				P	P	P	P	P		P	P
Hotel / Motel					P	P	P	P		P	P
Recreational vehicle park	C										



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Commercial / Mixed-Use											
Animal Services:											
Animal hospital (indoor)				P	P	P	P	P		P	P
Animal services, generally						P	P	P		P	
Financial Services:											
Automated teller machine, stand alone					P	P	P	P	P	P	P
Financial institutions				P	P	P	P	P	A	P	P
Food & Beverage Sales / Service:											
Bar / Lounge				C	P	C	C	P		P	
Food market				P	P	P	P	P	A		
Food preparation				P	P	P	P	P	A		
Food service				C	P	P	P	P	A		
Mobile vendor				P	P	P	P	P	A	P	
Restaurant				C	P	P	P	P	A	P	
Snack or beverage bars				P	P	P	P	P	A	P	
Mixed-Use:											
Mixed-use building				P	P	P	P	P	P		
Office, Business & Professional:											
Office				P	P	P	P	P	A	P	
Personal / Business services:											
Bail bond services						P	P	P		P	
Business support services					P	P	P	P	A	P	
Courier, messenger and delivery services					P	P		P	A	P	P
Day Labor Service						P		P		P	P
Funeral & interment services						P	P	P		P	
Crematorium								P		P	P
Linen/Uniform Supply						P	P	P	A	P	P
Maintenance & repair services						P	P	P		P	P
Personal services				P	P	P	P	P	A		
Pick-up station (laundry and/or dry cleaning)				P	P	P	P	P			
Retail sales:											
Convenience store				P	P	P	P	P	A	P	
Convenience store (with gasoline sales)						P	P	P		P	
Nonstore retailers					P	P	P	P		P	
Nursery/Horticulture/Farm Supply	C					P	P	P		P	



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Retail, limited (A)				P	P	P	P	P	A	P	
Retail, limited (B)					P	P	P	P	A	P	
Retail, general					P	P		P	A	P	
Vehicles / Equipment:											
Auto and truck repair								P		P	P
Automobile or vehicle dealership					P	P		P		P	P
Building material sales & services							C	P		P	
Car Wash								P		P	P
Commercial and Industrial Machinery and Equipment Rental and Leasing								P		P	P
Gasoline or diesel fuel sales							P	P		P	P
Manufactured Home Dealers								P		P	P
Truck stop										P	P
Public/Civic/Institutional											
Day Care:											
Adult day care				C	P	P	P	P			
Child care facility, commercial			C	P	P	P	P	P	A	P	
Child care facility, residential	P	P	P	P	P	P	P				
Assembly:											
Cemetery/mausoleum	P		P	P		P	P	P	P	P	P
Church or worship center	P	P	P	P	P	P	P	P	P		
Exhibition, convention, or conference facility					P	P	P	P	P	P	
Club or lodge (private)			C	P	P	P	P	P	P		
Government / Non-Profit:											
Armory									P	P	P
Detention or penal institution						P			P	P	P
Vehicle / equipment maintenance facility									P	P	P
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P
Social assistance, welfare, and charitable services					P	P	P	P	P	P	
Postal services				P	P	P	P	P	P	P	P
Educational:											
College / technical school					P	P	P	P	P	P	
School (public or private)	P	P	P	P	P	P	P	P	P	P	P
Personal instructional services				P	P	P	P	P	P	P	



Table 89-21-2 Use Table

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Medical:											
Hospital or sanitarium					P	P	P	P	P	P	
Medical office, clinic, or laboratory				P	P	P	P	P	P	P	P
Arts, Entertainment, & Recreation:											
Adult business								P		P	P
Civic Spaces	P	P	P	P	P	P	P	P	P	P	P
Cultural facility				P	P	P	P	P	P		
Entertainment facility				C	P	C	C	P	P		
Theater				C	P	P	P	P	P		
Health/fitness club				P	P	P	P	P	P	P	
Recreational Facility, Indoor				P	P	P	P	P	P		
Recreational Facility, Outdoor or Major	C					P		P	P		
Industrial / Production											
Manufacturing & Employment:											
Contractor	C									P	P
Data Processing, Hosting, and Related Services (including data centers)				P	P	P	P	*P	P	P	P
Dirt pit, sand pit or similar excavation	C										
Industrial Services										P	P
Media Production						P	P	P	P	P	P
Mining & quarrying											
Manufacturing, Light					P	P	P	P		P	P
Manufacturing, General						C		C		P	P
Manufacturing, Intensive										P	P
Oil and gas company (drilling and exploration)										P	P
Research and development					P	P			P	P	P
Oil and mining support activities										P	P
Stone cutting										P	P
Warehousing, Storage & Distribution:											
Building and landscaping materials supplier								P		P	P
Building maintenance services						P		P		P	P
Freight depot (railway and truck)										P	P



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Fuel Distribution or Recycling											P
Machinery and heavy equipment sales and service								P		P	P
Self-service storage facility				C		P	C	P		P	P
Oil & gas storage										P	P
Outdoor storage								P		P	P
Vehicle towing and storage facility											
Wholesale distribution, warehousing and storage						P		P		P	P
Infrastructure											
Transportation / Parking:											
Airport										P	P
Ground passenger transportation (e.g. taxi, charter bus)						P		P	P	P	P
Heliport / miscellaneous air transportation				A	A	A	A	A	A	A	A
Parking facility						P	P	P	P	P	P
Railroad facilities										P	P
Railroad right-of-way	P	P	P	P	P	P	P	P	P	P	P
Passenger depot						P				P	P
Transit shelter		P	P	P	P	P	P	P	P	P	P
Utilities:											
Utility, Major	P	P	P	P			P	P		P	P
Utility, Minor	P	P	P	P		P	P	P		P	P
Communications facilities:											
Communications facility	P				P	P	P	P	P	P	P
Wireless communication tower or antenna	P				C	P	C	P	P	P	P
Weather or environmental monitoring station	P				P	P	P	P	P	P	P
Waste-related:											
Hazardous waste disposal											
Hazardous waste transfer											
Junk yards											
Recycling plant											P
Remediation Services											P
Solid waste											
Agriculture											
Farming	P	P	P	P	P	P	P	P	P	P	P



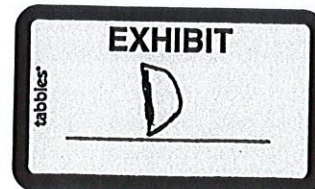
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Poultry and egg production	P									P	P
Community garden	P	P	P	P	P	P	P	P	P	P	P
Crop Agriculture	P	P	P	P	P	P	P	P	P	P	P
Community Supported Agriculture	P	P	P	P	P	P	P	P	P	P	P
Accessory											
Accessory use (generally)	A	A	A	A	A	A	A	A	A	A	A
Accessory commercial uses			C								
Accessory farm use	A	A	A	A	A	A	A	A	A	A	A
Accessory schools	A	A	A	A	A	A	A	A	A	A	A
Accessory retail and personal service, office, or recreational use	A	A	A	A	A	A	A	A	A	A	A
Caretaker or guard	A	A	A	A	A	A	A	A	A	A	A
Construction yard								A	A	A	A
Home occupation	A	A	A	A	A	A	A	A			
Model home complex / temporary real estate sales office	A	A	A	A	A	A	A	A			
Parking garage, private					A	A	A	A	A	A	A
Pharmacy, accessory			C	A	A	A	A	A	A	A	
Recreational facility, accessory		A	A	A	A	A	A	A	A	A	A
Sign	A	A	A	A	A	A	A	A	A	A	A
Storage	A		A	A	A	A	A	A	A	A	A
Electric Charging Stations				A	A	A	A	A	A	A	A
Miscellaneous											
Temporary Uses	A	A	A	A	A	A	A	A	A	A	A



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0 85 170 340 Feet



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